

### Remarks

Further and favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

Thus, claim 4 has been amended to delete traumata and temperature impairment from the Markush group of wounds. The remaining wounds in claim 4 are supported by the disclosure on page 20 of the specification.

New claims 7 and 8 have been added to the application. Claim 7 has a lower limit of 5% by weight for the concentration of acetylsalicylic acid or a pharmacologically acceptable salt thereof, combined with the upper limit of 20% by weight in claim 6. The lower limit of 5% by weight is supported by Examples 4-7 and 10 in the specification.

Claim 8 is directed to one of the specific wounds in claim 4, i.e. a postoperative wound.

Applicants respectfully submit that these amendments should be entered even though they are being presented after a final rejection. The effect of the amendments is to clearly place the application in condition for allowance, as will be apparent from the following discussion.

Thus, the patentability of the presently claimed invention over the disclosures of the references relied upon by the Examiner in rejecting the claims will be apparent from the following remarks.

The rejection of claims 4-6 under 35 U.S.C. §102(b) as being anticipated by Konishi et al. (EP '975, corresponding to US 5,916,918) as evidenced by Reller (US '548) is respectfully traversed.

#### **Comparison with Konishi et al.**

Konishi et al. disclose a drug for the treatment of skin injuries, particularly hardly curable diseases such as bedsore, which comprises acetylsalicylic acid in the form of an external application, and also disclose an experiment with rats which were injured using a heated flatiron which generated a skin wound due to temperature impairment, treated with acetylsalicylic acid in the form of an ointment, as indicated by the Examiner.

On the other hand, the present invention relates to a method for treating a skin wound selected from the group consisting of infectious disease in surgery, postoperative wound, chemical impairment, radiation injury, and vessel and lymphangiopathy, and for alleviating pain associated with the skin wound.

As such, the subject matter claimed in claims 4 to 8 is not disclosed in Konishi et al., and therefore, these claims are not anticipated by this reference.

### **Comparison with Reller**

Reller discloses that acetylsalicylic acid is useful for treatment of inflammation of skin including dermatoses accompanied by inflammation, skin injury, contact burns and insect bites, by its topical administration. Example II of Reller teaches that topical administration of aspirin is useful in reducing inflammation and the sensation of itching and pain.

However, Reller does not disclose that acetylsalicylic acid is useful for treating a skin wound selected from the group consisting of infectious disease in surgery, postoperative wound, chemical impairment, radiation injury, and vessel and lymphangiopathy, and for alleviating pain associated with the skin wound.

For these reasons, Applicants take the position that the rejection of the claims as being anticipated by Konishi et al. as evidenced by Reller should be withdrawn.

The Examiner rejects claims 1-3 as being anticipated by Inamoto et al. (US '308/WO '525) as evidenced by Reller. **However, claims 1-3 have been cancelled, and accordingly, there is no apparent reason for this rejection.**

The same considerations apply to the rejection of claims 1-2 as being anticipated by Mizobuchi et al. (US '355) as evidenced by Reller. **As noted above, claims 1-2 have been cancelled, and accordingly, there is no apparent reason for this rejection.**

Nevertheless, Applicants will now provide comments concerning the Inamoto et al. and Mizobuchi et al. references.

### **Comparison with Inamoto et al.**

Inamoto et al. disclose an external preparation having antipruritic activity containing acetylsalicylic acid as an active ingredient.

However, Inamoto et al. do not disclose that acetylsalicylic acid is useful for treating a skin wound selected from the group consisting of infectious disease in surgery, postoperative wound, chemical impairment, radiation injury, and vessel and lymphangiopathy, and for alleviating pain associated with the skin wound.

### **Comparison with Mizobuchi et al.**

Mizobuchi et al. disclose external compositions which contain aspirin, which are stored for long times, and are asserted to be superior in dermal absorbability and wherein the compositions are effective for the treatment of skin injury of rats.

However, Mizobuchi et al. do not disclose that acetylsalicylic acid is useful for treating a skin wound selected from the group consisting of infectious disease in surgery, postoperative wound, chemical impairment, radiation injury, and vessel and lymphangiopathy, and for alleviating pain associated with the skin wound.

Beginning on page 8 of the Office Action, the Examiner purports to respond to Applicants' previous patentability arguments. One of Applicants' arguments was that Konishi et al. do not disclose treatment of a skin wound described in claim 4, and in response, the Examiner pointed out that this reference anticipates the skin wound due to temperature impairment. This has now been addressed by deleting temperature impairment from claim 4. However, the additional response by the Examiner, in the paragraph bridging pages 8-9 of the Office Action, is not understood as applied to the present claims, **which are directed to a method of treating specific skin wounds, rather than to the composition.** The Examiner states that all three references teach the method of administration of an effective dose of the medicine containing acetylsalicylic acid to a subject which is the same as the method currently claimed, and thus anticipate the instant claims. However, as noted above, the references do not disclose treatment

of the specific skin wounds recited in claim 4. That is, contrary to the position taken by the Examiner, the subject to which the presently claimed method is directed, i.e. a patient having one of the recited skin wounds, is not the same as the subject in the references. The skin wounds themselves are different, and therefore the subjects are different. Applicants are claiming a so-called second medical use for a known compound. If the particular use recited in the method of use claim for the known compound is not disclosed in or suggested by the prior art, then the claim is patentable. The use recited in claim 4 of the present application is administering acetylsalicylic acid or a pharmacologically acceptable salt thereof to an affected part of a patient having a skin wound selected from the group consisting of infectious disease in surgery, postoperative wound, chemical impairment, radiation injury, and vessel and lymphangiopathy. None of the references applied by the Examiner disclose or suggest this use, since none of the references disclose or suggest these specific skin wounds. Therefore, the method of use itself as recited in claim 4 is patentable over the references.

The Examiner cites *In re Spada*, in attempting to support the rejection. But this reference relates to claims directed to **the same composition** as the prior art. As indicated above, Applicants are not claiming the composition itself (original claims 1-3), but are claiming the use of the composition (medicine) for a specific purpose other than the purposes/uses described in the references.

For these reasons, Applicants take the position that the presently claimed invention is clearly patentable over the applied references.

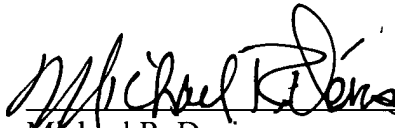
Therefore; in view of the foregoing amendments and remarks, it is submitted that each of the grounds of rejection set forth by the Examiner has been overcome, and that the application is in condition for allowance. Such allowance is solicited.

*The Commissioner is authorized to charge any deficiency or to credit any overpayment associated with this communication to Deposit Account No. 23-0975, with the EXCEPTION of deficiencies in fees for multiple dependent claims in new applications.*

Respectfully submitted,

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